



House of Representatives

File No. 693

General Assembly

February Session, 2014

(Reprint of File No. 217)

Substitute House Bill No. 5438
As Amended by House Amendment
Schedule "C"

Approved by the Legislative Commissioner
April 28, 2014

***AN ACT CONCERNING THE RIGHTS AND RESPONSIBILITIES OF
LANDLORDS AND TENANTS REGARDING THE TREATMENT OF BED
BUG INFESTATIONS.***

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2014*) (a) As used in this
2 section:

3 (1) "Certified applicator" means an individual who is certified, in
4 accordance with section 22a-54 of the general statutes, by the
5 Commissioner of Energy and Environmental Protection to perform
6 application within this state of a pesticide or class of pesticides;

7 (2) "Bed bug" means the common bed bug (*Cimex lectularius*);

8 (3) "Bed bug detection team" means a scent detection canine team
9 that holds a current, independent, third-party certification in
10 accordance with the guidelines for Minimum Standards for Canine
11 Bed Bug Detection Team Certification established by the National Pest
12 Management Association;

13 (4) "Landlord", "owner", "person" and "tenant" shall have the same
14 meanings as in section 47a-1 of the general statutes;

15 (5) "Qualified inspector" means a certified applicator, local health
16 department official or bed bug detection team retained by a landlord
17 to conduct an inspection for an infestation of bed bugs; and

18 (6) "Pest control agent" means a person who is a certified applicator
19 or who is otherwise specially licensed or qualified to treat bed bug
20 infestations.

21 (b) (1) A tenant shall promptly notify a landlord orally or in writing
22 when the tenant knows or reasonably suspects that the tenant's
23 dwelling unit is infested with bed bugs. Not later than five business
24 days after receiving such notice, the landlord shall obtain an inspection
25 by a qualified inspector of the dwelling unit and any contiguous unit
26 of which the landlord is an owner, lessor or sublessor, and may enter
27 any such dwelling unit or contiguous unit for the purpose of
28 conducting such inspection as provided in subdivision (2) of this
29 subsection. If the qualified inspector determines that any such
30 dwelling unit or contiguous unit is infested with bed bugs, the
31 landlord shall, not later than five business days after the date of the
32 inspection, take reasonable measures, as determined by such qualified
33 inspector, to effectively treat the bed bug infestation, including treating
34 or retaining the services of a pest control agent to treat the dwelling
35 unit and any contiguous unit of which the landlord is an owner, lessor
36 or sublessor, except the landlord may first attempt to treat such
37 infestation. If the landlord treats such bed bug infestation without
38 retaining the services of a pest control agent, the landlord shall first
39 vacuum the areas to be treated and shall, not later than five business
40 days after the date of such treatment, obtain an inspection of any
41 treated unit by a qualified inspector. If the qualified inspector
42 determines that any such unit is not infested with bed bugs, the
43 qualified inspector shall provide the landlord with a written
44 certification of such determination. If the qualified inspector
45 determines that any such unit is infested with bed bugs, the landlord

46 shall, not later than five business days after the date of such inspection,
47 retain the services of a pest control agent. Except as otherwise
48 provided in this section, the landlord shall be responsible for all costs
49 associated with inspection for and treatment of a bed bug infestation.

50 (2) (A) Upon reasonable written or oral notice to a tenant in
51 accordance with the provisions of section 47a-16 of the general statutes
52 that a landlord, qualified inspector or pest control agent must enter a
53 dwelling unit for the purpose of conducting an inspection for, or
54 treating an infestation of, bed bugs, a tenant shall not unreasonably
55 withhold access to the dwelling unit. Any entry to a dwelling unit shall
56 be made in accordance with the provisions of section 47a-16 of the
57 general statutes.

58 (B) A qualified inspector may initially conduct a visual and manual
59 inspection of the tenant's bedding and upholstered furniture. The
60 qualified inspector may inspect items other than bedding and
61 upholstered furniture when such qualified inspector determines that
62 such an inspection is necessary and reasonable. If the qualified
63 inspector finds bed bugs in the dwelling unit or in any contiguous unit
64 of which the landlord is an owner, lessor or sublessor, such qualified
65 inspector may have such additional access to the tenant's personal
66 belongings as the qualified inspector determines is necessary and
67 reasonable. A tenant shall comply with reasonable measures to permit
68 the inspection and treatment of a bed bug infestation as determined by
69 the landlord and qualified inspector or pest control agent, and such
70 tenant shall be responsible for all costs associated with preparing a
71 dwelling unit for such inspection and treatment. The tenant's knowing
72 and unreasonable failure to comply with such bed bug inspection and
73 treatment measures shall result in the tenant being held liable for those
74 bed bug treatments of the dwelling unit and contiguous units arising
75 from such failure.

76 (C) Whenever any furniture, clothing, equipment or personal
77 property belonging to a tenant is found to be infested with bed bugs,
78 such furniture, clothing, equipment or personal property shall not be

79 removed from the dwelling unit until a pest control agent determines
80 that a bed bug treatment has been completed, or until the landlord
81 approves of such removal.

82 (3) (A) A landlord shall offer to make reasonable assistance available
83 to a tenant who is not physically able to comply with preparation for
84 any bed bug inspection or treatment measures that are the tenant's
85 responsibility under this section. The landlord shall disclose to the
86 tenant the cost, if any, of providing such assistance to the tenant. The
87 landlord may, at the landlord's discretion, charge the tenant a
88 reasonable amount for any such assistance, provided such charge is
89 subject to a reasonable repayment schedule not to exceed one year,
90 unless the landlord and tenant agree to one or more extensions of such
91 repayment schedule. A tenant's failure to agree to any such charges or
92 repayment schedule shall not relieve the landlord of the duty to treat
93 the dwelling unit.

94 (B) A tenant's failure to make any payment required pursuant to a
95 repayment schedule may be the basis for a summary process action
96 instituted pursuant to chapter 832 of the general statutes. At the
97 termination of a tenancy, a landlord may deduct any remaining
98 payments owed under a repayment schedule from a security deposit
99 in accordance with the provisions of section 47a-21 of the general
100 statutes.

101 (C) Nothing in this section shall be construed to require a landlord
102 to provide a tenant with alternative lodging or to pay to replace the
103 tenant's personal property. Nothing in this section shall be construed
104 to preempt or restrict application of the provisions of chapter 814c of
105 the general statutes or any other state or federal law concerning
106 reasonable accommodations for persons with disabilities.

107 (c) No landlord shall offer for rent a dwelling unit that the landlord
108 knows or reasonably suspects is infested with bed bugs. Before renting
109 a dwelling unit, a landlord shall disclose to a prospective tenant
110 whether the unit the landlord is offering for rent or any contiguous

111 unit of which the landlord is an owner, lessor or sublessor is currently
112 infested with bed bugs. Upon request from a tenant or prospective
113 tenant, a landlord shall disclose the last date on which the dwelling
114 unit being rented or offered for rent was inspected for, and found to be
115 free of, a bed bug infestation.

116 (d) (1) The failure of any landlord to comply with the provisions of
117 this section shall constitute a rebuttable presumption that such
118 landlord has failed to comply with the provisions of subdivisions (1)
119 and (2) of subsection (a) of section 47a-7 of the general statutes and the
120 tenant may proceed as provided in section 47a-12 of the general
121 statutes or section 47a-14h of the general statutes, as amended by this
122 act. Any landlord who fails to comply with the provisions of this
123 section shall be liable to the tenant for reasonable attorneys' fees and
124 the greater of two hundred fifty dollars or the tenant's actual damages.

125 (2) A landlord may apply to the Superior Court to obtain injunctive
126 relief in accordance with section 47a-18 of the general statutes and to
127 obtain such other relief as may be appropriate against a tenant who (A)
128 refuses to provide reasonable access to a dwelling unit, (B) fails to
129 comply with reasonable requests for inspection or treatment of a
130 dwelling unit, or (C) fails to implement reasonable inspection and
131 treatment measures required pursuant to subsection (b) of this section.
132 The entry fee for such an action shall be the same as the entry fee for a
133 small claims case. If a court finds that a tenant has unreasonably failed
134 to comply with this section, the court may issue a temporary order or
135 interim relief to carry out the provisions of this section, including, but
136 not limited to: (i) Granting the landlord access to the dwelling unit for
137 the purposes set forth in this section; (ii) granting the landlord the right
138 to engage in bed bug inspection and treatment measures; and (iii)
139 requiring the tenant to comply with specific bed bug inspection and
140 treatment measures or assessing the tenant with costs and damages
141 related to the tenant's noncompliance. Any order granting a landlord
142 access to a dwelling unit shall be served upon the tenant at least
143 twenty-four hours before a landlord, qualified inspector or pest control
144 agent enters the dwelling unit.

145 (3) The remedies in this section shall be in addition to any other
146 remedies available at law, or in equity, to any person. This section shall
147 not be construed to limit or restrict the authority of any state or local
148 housing or health code enforcement agency.

149 Sec. 2. Subsections (a) and (b) of section 47a-14h of the general
150 statutes are repealed and the following is substituted in lieu thereof
151 (*Effective October 1, 2014*):

152 (a) Any tenant who claims that [his] the landlord has failed to
153 perform his or her legal duties, as required by section 47a-7, [or]
154 subdivisions (1) to (13), inclusive, of subsection (a) of section 21-82 or
155 section 1 of this act, may institute an action in the superior court
156 having jurisdiction over housing matters in the judicial district in
157 which [he] such tenant resides to obtain the relief authorized by this
158 section and sections 47a-20, [and] 47a-68, and section 1 of this act. No
159 tenant may institute an action under this section if a valid notice to quit
160 possession or occupancy based upon nonpayment of rent has been
161 served on [him] such tenant prior to [his] the institution of an action
162 under this section or if a valid notice to quit possession or occupancy
163 based on any other ground has been served on [him] such tenant prior
164 to [his] such tenant making the complaint to the agency referred to in
165 subsection (b) of this section, provided any such notice to quit is still
166 effective.

167 (b) The action shall be instituted by filing a complaint, under oath,
168 with the clerk of the court. The complaint shall allege (1) the name of
169 the tenant; (2) the name of the landlord; (3) the address of the
170 premises; (4) the nature of the alleged violation of section 47a-7,
171 subsection (a) of section 21-82 or section 1 of this act; and (5) the dates
172 when rent is due under the rental agreement and the amount due on
173 such dates. The complaint shall also allege that at least twenty-one
174 days prior to the date on which the complaint is filed, the tenant made
175 a complaint concerning the premises to the municipal agency, in the
176 municipality where the premises are located, responsible for
177 enforcement of the housing code or, if no housing code exists, of the

178 public health code, or to the agency responsible for enforcement of the
179 code or ordinance alleged to have been violated, or to another
180 municipal agency which referred such complaint to the municipal
181 agency responsible for enforcement of such code or ordinance. In the
182 case of a mobile manufactured home located in a mobile manufactured
183 home park, such complaint may be made to the Commissioner of
184 Consumer Protection. The entry fee shall be twenty-five dollars, which
185 may be waived in accordance with section 52-259b. Such entry fee shall
186 be a taxable cost of the action. If, on the same day, more than one
187 tenant from the same building or complex institutes an action under
188 this section and pays the entry fee for such action, unless such fee is
189 waived, the actions shall be treated as a single action. No recognizance
190 or bond shall be required.

191 Sec. 3. (NEW) (*Effective October 1, 2014*) The Connecticut
192 Agricultural Experiment Station, in consultation with the Department
193 of Public Health and the Department of Energy and Environmental
194 Protection, shall, within available appropriations, develop and publish
195 best practices and guidelines that identify the most effective and least
196 burdensome methods of investigating and treating bed bug
197 infestations.

| | | |
|---|------------------------|--------------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>October 1, 2014</i> | New section |
| Sec. 2 | <i>October 1, 2014</i> | 47a-14h(a) and (b) |
| Sec. 3 | <i>October 1, 2014</i> | New section |

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which establishes a framework for identifying and treating bed bug infestations in residential rental properties, has no fiscal impact. The provision regulates the responsibilities that both the landlords and tenants have if such infestations occur.

The bill also has no fiscal impact by requiring the Agricultural Experiment Station (AES) to develop and publish guidelines on investigating and treating bed bug infestation within available appropriations. The agency currently produces information guides addressing bed bugs, which is available on the AES website.

House "C" allows a tenant's failure to make certain payments to be the basis for a summary process action and extends the maximum repayment term for these costs. There is no fiscal impact to the state.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5438 (as amended by House "C")******AN ACT CONCERNING THE RIGHTS AND RESPONSIBILITIES OF LANDLORDS AND TENANTS REGARDING THE TREATMENT OF BED BUG INFESTATIONS.*****SUMMARY:**

This bill establishes a framework for identifying and treating bed bug infestations in residential rental properties, including public housing. It sets separate duties and responsibilities for landlords and tenants, including notice, inspection, and treatment requirements. It also gives landlords and tenants remedies when either party fails to comply with these duties and responsibilities.

The bill requires landlords to hire and pay for a pest control agent to treat bed bug infestations if they are unable to successfully treat the infestation on their own. However, it makes tenants financially responsible for subsequent treatment costs of their unit and contiguous units if they knowingly and unreasonably fail to comply with treatment measures. It also prohibits landlords from renting units that they know or suspect are infested with bed bugs.

The bill requires the Connecticut Agricultural Experiment Station, in consultation with the departments of Public Health and Energy and Environmental Protection (DEEP), within available appropriations, to develop and publish guidelines and best practices identifying the most effective and least burdensome methods of investigating and treating bed bug infestations.

The bill makes technical and conforming changes to the statute allowing tenants to enforce a landlord's duties (CGS § 47a-14h).

*House Amendment "C" (1) authorizes landlords to institute summary process proceedings against a tenant who fails to make an agreed-upon payment for costs associated with preparing his or her unit for treatment when he or she is physically unable to do so and (2) extends, from six months to one year, the maximum repayment term for these costs, unless the landlord and tenant agree to an extension.

EFFECTIVE DATE: October 1, 2014

DEFINITIONS

The bill defines "certified applicator" as an individual who is certified by DEEP to apply pesticides. A "pest control agent" is a (1) certified applicator or (2) person otherwise specially licensed or qualified to treat bed bug infestations. "Bed bug detection team" means a scent detection canine team that holds a current, independent, third-party certification in accordance with the standards set by the National Pest Management Association. "Qualified inspector" is a (1) certified applicator, (2) local health department official, or (3) bed bug detection team. "Bed bug" refers to the species *Cimex lectularius*, the common bed bug.

LANDLORD'S DUTIES

By law, landlords must comply with building and housing codes materially affecting health and safety and keep units in fit and habitable condition (CGS § 47a-7).

Under the bill, landlords must:

1. provide reasonable written or oral notice to a tenant before entering a unit for bed bug inspection or control purposes;
2. pay for the inspection and treatment of a bed bug infestation;
3. have the unit and contiguous units inspected by a qualified inspector within five business days of receiving notice from a tenant that his or her unit may be infested;

4. take reasonable measures to treat the infestation within five business days after the inspection, including treating contiguous units;
5. offer assistance to tenants who cannot physically comply with treatment procedures, for which the landlords may charge a reasonable amount;
6. offer reasonable accommodations to people with disabilities;
7. refrain from offering a unit for rent if they know or suspect it is infested;
8. disclose to prospective tenants whether the rental unit or a contiguous unit is currently infested; and
9. upon request from a current or prospective tenant, disclose the last date the rental unit was inspected for bed bugs and found free of infestation.

The bill specifies that a landlord's rights and duties, as they relate to contiguous units, apply only if the landlord owns, leases, or subleases the contiguous unit.

Under the bill, a landlord may self-treat an infestation. If a landlord chooses to do so, he or she must:

1. vacuum areas to be treated before treatment;
2. within five days after the treatment, have a qualified inspector inspect the unit and provide written certification that it is not infested; and
3. hire a pest control agent within five business days after a qualified inspector's determination that self-treatment was not effective.

TENANT'S DUTIES

Under the bill, tenants must:

1. promptly notify their landlord, orally or in writing, when they know or suspect their unit is infested with bed bugs;
2. cover the costs associated with preparing the unit for inspection and treatment;
3. comply with reasonable measures to eliminate and control the infestation, or pay additional costs arising from noncompliance; and
4. not move infested material from their unit until treatment is complete or the landlord gives them permission to do so.

INSPECTIONS

Landlords, qualified inspectors, and pest control agents must enter units in accordance with state law. That is, landlords must provide reasonable notice of their intent to enter unless there is an emergency, court order, extended absence, or abandonment. By law, tenants must not unreasonably deny landlords and their workers or contractors (e.g., a qualified inspector or pest control agent) access to their unit.

During an initial inspection, qualified inspectors may visually or manually inspect only a tenant's bedding and upholstered furniture. However, they may inspect other items, including personal belongings, when they deem it necessary and reasonable if they find bed bugs in the unit or in a contiguous unit.

FINANCIAL RESPONSIBILITY

The bill requires landlords to pay to treat bed bug infestations. Tenants are responsible for preparing the unit for treatment (e.g., moving or covering furniture). The bill does not modify state or federal duties regarding reasonable accommodations for people with disabilities.

The bill requires landlords to assist tenants who physically cannot

comply with their duty to prepare their unit. If landlords disclose the cost of assistance, they may charge tenants a reasonable amount for the assistance and set a repayment schedule of up to one year, unless both parties agree to an extension. If a tenant fails to make an agreed-upon payment, the landlord may (1) institute summary process (eviction) proceedings against the tenant or (2) deduct the amount owed from the tenant's security deposit at the end of the tenancy. Under the bill, even if the tenant does not agree to the charges or repayment schedule, the landlord must treat the unit.

Tenants who unreasonably fail to comply with treatment procedures may be held financially responsible for the cost of additional treatments of their unit and contiguous units.

Under the bill, landlords are not responsible for (1) providing tenants with alternative accommodations during treatment or (2) replacing tenants' personal property. However, under the state's Uniform Relocation Assistance Act, landlords may be liable for costs related to relocating tenants displaced by code enforcement activity associated with a bed bug infestation (CGS § 8-270).

REMEDIES

In addition to the remedies identified in the bill, aggrieved landlords and tenants may pursue any other remedies available in law or equity. The bill does not restrict the authority of state or local housing or health code enforcement agencies.

Tenant's Remedies

The bill establishes a rebuttable presumption that landlords breached their duty to comply with building and housing codes materially affecting health and safety and keep units in fit and habitable condition when the statutory bed bug infestation procedure is not followed (CGS § 47a-7(a)(1-2) establishes these obligations). The bill allows tenants to (1) ask a court to provide relief, including rent abatement or an order to comply or (2) terminate the rental agreement.

A landlord who fails to comply with the bill is additionally liable for a \$250 fine, or actual damages, whichever is greater, plus reasonable attorney's fees.

Landlord's Remedies

If tenants unreasonably refuse to give a landlord, qualified inspector, or pest control agent access to their unit, or fail to comply with inspection or treatment procedures or control measures, a landlord may ask the court to provide relief. This includes:

1. granting the landlord access to the unit to carry out inspection or treatment measures;
2. requiring the tenant to comply with inspection or control measures or charging them for the costs of noncompliance, including attorney's fees; and
3. terminating the rental agreement.

Under the bill, the entry fee for initiating such an action is the same as that for a small claims case (i.e., \$90).

Any order granting the landlord, qualified inspector, or pest control agent access to the premises must be served on the tenant at least 24 hours before entry.

COMMITTEE ACTION

Housing Committee

Joint Favorable Substitute

Yea 11 Nay 0 (03/13/2014)

Judiciary Committee

Joint Favorable

Yea 36 Nay 4 (04/14/2014)